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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Water Rights

KENT L. JONES
State Engineer/Division Director

August 3, 2016

Mt Carmel Irrigation
Cary Reese, Dell Tait
PO Box 5566
Mt Carmel, UT 84755

Dear Dell and Cary,

I received a copy of Dell's letter on July 22, 2016, (attached), regarding his concerns on the distribution of water on the East Fork of the Virgin River in Long Valley. Since I do not have Dell's address and he is associated with Mt. Carmel Irrigation, I am responding by this letter to Mt. Carmel Irrigation. This response should address concerns, and copies are being provided to Orderville & Glendale Irrigation Companies and the Kane county Sheriff's office.

As I reviewed Dell's letter much of the readings were comparable to the water commissioner's readings however in his interpretation, not all the % numbers are accurate from which he draws his conclusions. My notes appear on the second page where the actual handwritten numbers reflect closer the actual % the diversion is receiving. Therefore some, (but not all) of Dell's conclusions are based on inaccuracies from his interpretation of the percentages he arrived at.

I asked the Water Commissioner Mike Chamberlain to provide records and update the 2016 division records since April, regarding water distribution along the East Fork Virgin River. I evaluated the amounts provided to the 3 main Diversions on the system for April- July for Glendale, Orderville and the Mt. Carmel irrigation systems. Although some of the distribution between the major diverters is out of balance, it is still within reasonable amounts for system operation.

The Water commissioner is instructed to keep the balance within 5-10% but deviation of up to 15% is allowed. The system is running at 50% or less, which is typical for this time of the year, mainly due to sustained drought conditions over the last 5 years. With half the water available, small variances are very noticeable. These variances can be accentuated by the time of day readings are taken, and lag time for adjustments to stabilize within the system. All water users need to be cognizant of operating with less water and realize these variances will occur as the system is adjusted. I have spoken with the Water Commissioner and advised him to do the best he can to balance the distribution system in his operation; I expect these have been and will continue to be corrected in the future.

To clarify, per the Decrees that govern distribution of Water on the East Fork of the Virgin River, namely the McCarty, Burton, Cox, and Virgin River Decrees, all relate that distribution of water is on a prorated basis and not based on priority, therefore the system is run on a "share and share alike" basis of the water available in the system. This distribution method has been followed for years by the water commissioners and is formalized in a distribution schedule that has been published in annual reports and has been provided to the Water Commissioners, of which Dell also has a copy.

The Water Commissioner has made some adjustments in measurement and distribution methods on the system. Specifically I have asked him to be diligent in



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measurement of the diversion turn outs at the measurement points, those being just downstream of the sluice basins for each company. The amounts returned unused from each individual system does not credit to the diversion amount. Instead what are counted, are actual diversion amounts used by the pipe/ditch system. Therefore overflows and excess return water is not counted in the "used" amounts.

The Water Commissioners are specifically not required to make adjustments around short duration storms unless they go on longer than a "few days". When rain events occur, due to fire damage in the drainage, most diversions shut down and turn water out, to prevent debris accumulation and excessive silt from entering diversions intakes. Usually there is more water in the system due to less water being taken at the diversion intakes and these are combined with higher flows due to short duration these rain events.


Please allow the water commissioner to do his job without interference. We appreciate Dell's efforts in auditing the water distribution on the system. The division continues to be working with the water commissioner to correct out of balance aspects. Please realize that the very nature of operating a water system such as the East Fork, which is mainly fed by springs and not actively provided by reservoirs (as on other systems) is known to have some variances along with lag time for adjustments to show up at lower turn outs.

The water commissioner can be contacted with your concerns; he is the local authority on running the system. He is accountable to both the Division and the water users, and does what is necessary to adjust the system fairly. Be advised that variances will occur due to the nature of operating this distribution system in a dry season.

I have reviewed the Water Commissioner's performance and found his actions are not purposefully malicious and not worthy of criminal actions, any charges of this nature are unwarranted and adversarial in the collective efforts that strive to have the water users working together.

I appreciate your concerns, if you have any questions or comments please contact me at 801 538-7430 or by email at MikeSilva@utah.gov

Sincerely,


Mike Silva
Distribution Engineer

Attached: Dell Tait Letter, Rec'd July 22, 2016

cc:

Orderville Glendale Irrigation Company
Glendale Irrigation Company
Mike Chamberlian, Water Commissioner
Melin Esplin, Chairman, East Fork Virgin River
Kane County Sherriff's office
Southwestern Regional office- Cedar City
File (East Fork Virgin River)

To
Kane County Sheriff
Utah State Water Distribution Engineer
Virgin East Fork Water Users

Our water flow on the river held up really well this spring. Approximately two weeks later than normal. I became concerned do to the differences in flow into the three major water company's systems. Orderville and Mt. Carmel were split evenly at 70%. Glendale was running some where between 130 to 140 %. The % to Glendale is my best guess as the charts I have only go to 100%.

I found Mike Chamberlin and as neer as I can remember,said to him." Mike you need to turn Glendale down to what they are actually using. Then you can measure at Orderville and Mt. Carmel and see what the creek is actually flowing. And then adjust from there". Mike immediately flew mad and said."I am tired of you guys thinking you can tell me how to do my job. I am the water commissioner and I will do it as I see fit." I said. "Well that is a hell of an attitude." He said ." I got attitude from you when I walked up here. You just need to go home and quit messing with it." I said." Mike I have never messed with it , And will never mess with it." He said." That's good. Cause if you do I'll get the Sheriff after you." I said." That is as it should be. But you need to take care of it. He said." well it won't be today. You just go home and get yourself some breakfast." I just looked at him. He then said." go on just run along." So I did run along.

Mike made no meaningful adjustments to the system ult ill June 28. When Brian Lamb. In Brian's words ."Jumped Mike about Orderville ruining at only 40% flow. Mike's lack of action was deliberately intended to give his own Glendale Irrigation Company as much extra water as possible. He did this with full intent to steel as much water for Glendale as he could. This is a criminal act on Mike's Part.

Mike then on June 28. Turned Glendale down to 55%. Orderville Up to 75% . And Mt. Carmel down to 50%. He did not readjust to even the flows out. Which is his Job. He did this to appease Brian Lamb. Not to properly do his job. This is also a criminal act on Mike's Part.

We received a great storm June 30 and July1. The creek came up. Mike took no action to adjust for this change. He took no action debility. To give Glendale as much of the extra water as he could. He did this with full intent. This is a criminal act on Mike's Part.

It is my opinion that Mike Chamberlin needs to be charged with these crimes. H can the go to court. With the presumption of innocence. And let justice prevail.

Thank you Dell Tait.

RECEIVED
JUL 22 2016 R.J.
WATER RIGHTS
SALT LAKE

Virgin East Fork Weir Readings

Fri. morning June 17 2013 8:30AM

Orderville	.23'	75.00%
Glendale	1.03'	Well over 100%

I read the weirs, went and found Mike, told him he needed to turn Glendale down to what they were actually using and then measure the water at Orderville and Mt Carmel. So he could see what % the creek was running at then adjust from there.

He immediately flew mad. Said. "I am tired of you guys trying to tell me how to do my job. I am the Water commissioner and I will do it how I see Fit".

The following is apparently how he sees Fit.

He then told a big lie of how Glendale cannot get more than 60% of their water into their System.

June 20 through June 26. The Glendale System took delivery of, from 82% to 98%.

I'm going to guess The flow above 90% most of the time.

If they were still filling their dry wash Pond this late in the Year

Then they are even more wast full with their water than I believed.

Mon Afternoon June 20

		<u>CFS</u>		<u>%</u>
Orderville	0.145	1.87	✓40.00%	40%
Glendale	0.685	5.7	98.00%	75%

Glendale Pond at bottom of overflow pipe not running over

Tues. morning June 21

Mt Carmel	0.5	4.61	✓70.00%	70%
Orderville	0.165	2.25	x 55.00%	47%
Glendale	0.665	5.5	x 98-99%	68%

Glendale Pond not running over down 4" over night at 98%

I have no doubt the Glendale system will not take the water it did when it was new. But this.

Proves Glendale System will still take 100% of their Diversion Right

Wed. afternoon June 22, 6:30PM

Orderville	0.16	2.2	47.00%
Glendale	0.68		x95.00% 76%

Sat afternoon June 25, 8:15PM

Orderville	0.145	48.00%	40%
Glendale	0.6	87.00%	60%

Sun. afternoon June 26

Orderville	0.17	50.00%	✓
Glendale	0.585	82.00%	57%
Mt Carmel	0.44	68.00%	57%

Brian Lamb An Orderville Stockholder checked weir, reported reading 40%

In his Words. He went and jumped Mike Chamberlin about it.

This is the only Obvious Adjustment that Mike Has Made this season.

He did not Re Adjust to get it right.

Tues. evening June 28

Mt Carmel	0.39	48.00%	✓
Orderville	0.2	63.00%	✓
Glendale	0.56	55.00%	53%

wed. morning June 29 8:00AM

Mt Carmel	0.44	3.62	55.00%	56
Orderville	0.225	3.51	75.00%	✓
Glendale	0.575	4.36	55.00%	✓

Thurs. morning June 30 7:45AM

		CFS	%
Mt Carmel	0.465	3.95	62.50% ✓
Orderville	0.225	3.51	75.00% ✓
Glendale	0.57	4.36	55.00% ✓

Thurs. evening June 30 8:30PM

MT Carmel	0.43	3.62	55.00% ✓
Orderville	0.23	3.6	75.00% 78
Glendale	0.58	4.3	56.00% ✓

Received A good rain Thurs night & Fri morning

Fri morning July1 10:30AM

MT Carmel	0.56	5.26	80.00% ✓
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East side Parshell Flume 7 3/4" .64'

Sat afternoon July 2, 8:15PM

East side Parshell Flume 7 1/4" .64'

Mon Afternoon July4 6:32PM

MT Carmel	0.38	3.0	48.00% ✓
Orderville	0.2	3.05	65.00% ✓
Glendale	0.88		
	0.85'		100% ✓

Thurs. evening July 7 5:30PM

Glendale	0.64	5.15	65.00% ✓
Orderville	0.175	2.34	50.00% ✓
MT Carmel	0.42	3.3	55.00% 53%

I contacted the County Sheriff and was able to get a Deputy to read the weirs later that evening
This discrepancy continued until the creek flow doped back down to around 50%

**Glendale (and a little to orderville), was given all of the extra water
from the wonderful storm we received**

**Because of his intent Not making adjustments for this storm was
Done by design and is a criminal act , on Mikes part**

**Because of his intent not making any adjustment when I ask him to on
June 17 is a criminal act, on Mikes part**

**I know Mike will play dumb. Say he didn't have time. Will have all his excuses
in a row and ready to go. The simple fact is . Mike thinks because of who he is.**

And who he Represents That He is Above the Law.

Mike is to do his job as directed by Utah Law. Not how he or anyone else sees fit.

I swear thees readings are true and correct. Dell Tait

Open heart surgery tomorrow

Sun. Afternoon July 17 4:30 PM

MT Carmel	0.4	3.29	50.00% ✓
Orderville	0.17	2.34	50.00% ✓
Glendale	0.55	4.0	53.00% ✓